

REMARKS

The following amendments and remarks are in response to the Official Action mailed December 14, 2005.

In the Official Action, the Examiner notes that the priority claims in the first sentence of the application may be incorrect. Thus, Applicants have amended the priority claims as well as the rest of the specification and herewith submits a marked-up copy and a clean copy of a substitute specification.

In addition, the Examiner refers to the drawings as failing to comply with 37 C.F.R. §1.84(p)(5) because the drawings include reference characters not mentioned in the description, specifically, reference characters 802, 803, 805, 808, 809, 811, 814, 902, 904 and 906. In response to this objection, Applicants have amended the specification to include such reference characters as well as other reference characters included in the drawings, but not in the specification. No new matter has been submitted as a result of these amendments.

In the Official Action, claim 1-20 are provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1-20 of co-pending application No. 10/294,982 in view of U.S. Patent No. 5,827,328 to *Buttermann*. In response to this rejection, Applicants hereby file a Terminal Disclaimer with regard to claims 1-20 of co-pending application No. 10/294,982, thereby removing such application as possible prior art.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/642,523

Docket No.: SPINE 3.0-437 CIPCIPCIP

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: March 21, 2006

Respectfully submitted,

By 

Raymond Garguilo, Jr.

Registration No.: 50,930

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant